

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 55 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

JITENDRAKUMAR S KOTHARI

Appearance:

MR MANISH R BHATT for Petitioner
MR. MANISH J.SHAH FOR MR JP SHAH for Respondent

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 28/07/98

ORAL JUDGEMENT (Per C.K.Thakkar,J.):

The following two questions are referred for the opinion of this Court:

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right

in law in holding that the assessee did not derive any perquisite as a result of using the car for the personal use?"

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the assessee was entitled to the full standard deduction u/s 16(1) of the I.T.Act.?"

The questions are directly covered by a decision of this Court in ITR No.266 of 1982 decided on November 9, 1995. The Bench, after considering the relevant case-law on the point, answered the questions in favour of the assessee and against the revenue. The said decision was followed by a Division Bench of this Court in ITR No.6 of 1984 and ITR No.316 of 1983, decided on December 3, 1996.

We agree with the view taken by the Division Bench earlier and, accordingly, answer the questions in the affirmative, i.e. in favour of the assessee and against the revenue. Reference is accordingly answered. No order as to costs.
